Message

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Subject: OCSPP News for August 16, 2021

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- The National Law Review 08/13; Maine PFAS Products Bill Most Far-Reaching To Date

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EPA: Eastman reduced emissions of harmful pollutant at Longview facility

Courtney Stern, Longview News-Journal

https://www.news-journal.com/news/local/epa-eastman-reduced-emissions-of-harmful-pollutant-at-longview-facility/article_73d5ea38-fa10-11eb-b587-cba724af589c.html

Eastman Chemical Co.'s reduction of the emission of a harmful pollutant during the past six years has also led to decreased public health risk, according to the Environmental Protection Agency.

The EPA held a virtual community meeting this week regarding Eastman Chemical's ethylene oxide (EtO) emissions and its health effects.

According to the Centers for Disease Control and prevention, ethylene oxide is a flammable gas that can be harmful to people. Exposure to ethylene oxide may cause headache, nausea, vomiting, diarrhea, breathing difficulty, drowsiness, weakness, exhaustion, reproductive issues as well as eye and skin burns.

Fran Verhalen, with the EPA's Dallas office, said the chemical is a component of many household products. She said it is used in items like clothing and detergent, and it can be used to sterilize medical equipment.

Eastman makes and uses ethylene oxide.

EPA's National Air Toxics Assessment (NATA) released in 2018 identified a number of areas across the nation with potentially elevated risk from continuous exposure to the chemical in the outdoor air. In Oct. 2020, the EPA asked for help from Texas in gathering the most current information about facilities that emit ethylene oxide, including Eastman Chemical.

"From 2014-2020, through emission reductions and/or re-evaluation of actual emission levels, reported EtO annual emissions at the Eastman facility were reduced approximately 75 percent," the technical assessment report released in July said.

The reduction in emissions has resulted in a reduction of public health risk.

"Based on 2018 emission inventory data, EPA is updating the estimated inhalation public health risk from ethylene oxide in the community near Eastman," the report said. "The revised increased cancer risk number based on 2018 emission data is 300 in 1 million."

The model used to assess risk shows about a 30-mile radius.

"The risk can be over that entire area, but when we work through the model, we determine which census tracts will have the highest risk," Vehalen said during a Tuesday meeting via Zoom. Areas closer to Eastman are most at risk, she said, within a 1- to 1.5-mile radius.

"I use the term 'potential cancer risk' because each of us is unique in our reaction to cancer-causing agents," Vehalen said.

This is a 78% decrease from the 2014 risk assessment of 1,355 in a million.

Preliminary 2020 emission levels were about half the level in 2018 assessed by the EPA, according to the report.

The agency's guidelines for cancer risk assumes someone is exposed to the chemical 24 hours per day for a lifetime of 70 years. A one-time, short-term exposure to low amounts of ethylene oxide should not cause immediate harm, Verhalen said.

Long term exposure to ethylene oxide increases the estimated risk of developing certain cancers such as leukemia,

lymphoma and breast cancer.

According to the technical assessment, the changes in EtO emission estimates at Eastman are the result of refinements to the engineering of the emissions and are not due to physical or operational changes at the Longview facility.

Eastman Vice President of Texas Operations Andrew Coggins spoke during the presentation to give background about the company and its safety compliance. Coggins is also site leader in Longview.

"The Longview community is very important to us," Coggins said. "We live and work here, we raise our kids here. ... We support the region where we live."

Eastman has been in Longview since 1952. Coggins said the company has a "very strong safety track record."

He said the company will readily comply with EPA regulations.

Shari Beth Libicki was hired by Eastman to help with compliance. She said the EPA's predicted risk does not reflect people's daily lives in their interaction with the emissions. The estimates are structured that way to...

NAS Panel Hears Call To 'Emphasize' PFAS Disease Links In Test Guide
Diana DiGangi, Inside TSCA
https://insideepa.com/tsca-news/nas-panel-hears-call-emphasize-pfas-disease-links-test-guide

Community liaisons to a National Academy of Sciences (NAS) committee developing guidance for clinical testing for per- and polyfluoroalkyl substances (PFAS) exposure are urging the panel to "emphasize" studies tying ingestion of the chemicals to several diseases, among other calls for a more protective guide that could drive strict rules.

The August letter signed by the NAS panel's 41 "community liaisons," including researchers and representatives of environmental and community groups, highlights what the writers "believe are critical actions needed for impacted communities," including steps to underscore the relationship between PFAS exposure and infectious disease -- a relationship they say other authorities have improperly downplayed.

They ask the NAS panel to "emphasize" epidemiological studies that link PFAS drinking water exposures to several diseases, "rather than minimize or discount them as currently done in the [Agency for Toxic Substances and Disease Registry (ATSDR)] PFAS Clinical Guidance document."

ATSDR is one of three government entities sponsoring the NAS committee, along with the Centers for Disease Control and Prevention (CDC) and the National Institute of Environmental Health Sciences (NIEHS).

The panel is reviewing the agencies' current guidance for clinicians on how to deal with patients exposed to PFAS and will ultimately produce "an objective and authoritative review of current evidence regarding human health effects of those PFAS being monitored in the CDC's National Report on Human Exposure to Environmental Chemicals."

But the liaisons are urging the committee to use its report to better link the blood tests with health effects like increased susceptibility to disease, noting that widespread PFAS testing and medical monitoring could help drive new regulations for the chemicals under the Toxic Substances Control Act (TSCA) and other laws, or entirely new statutes.

The letter touts a variety of steps it says would aid communities impacted by PFAS exposure, which "include, but are not limited to, PFAS blood testing and medical monitoring, improved education for healthcare providers, increased focus on environmental justice, extra attention to occupational exposures and vulnerable populations."

For instance, the liaisons urge the committee to "acknowledge that subpopulations beyond just those with higher

environmental PFAS exposure exist and have an increased risk of not only exposure but of PFAS-linked disease," meaning rules to limit PFAS harms would have to reach beyond environmental releases and also include other exposure pathways, like the substances' use in consumer products.

The letter also calls on NAS to recommend blood testing for PFAS as "part of routine preventive health care on communities with known sources of PFAS contamination," to "acknowledge that specific health risks have been linked to PFAS exposure," and to "acknowledge that the science surrounding PFAS is still emerging and that guidelines may need to be updated to reflect new evidence regarding exposure, health effects, and treatments."

Healthcare Providers

And the authors highlight a lack of training for healthcare providers on PFAS, echoing similar comments from physicians during in-person meetings.

"Healthcare providers do not receive extensive toxicological or environmental health education during their training," the letter says. "If training is provided, the emphasis is on safety concerns of pharmaceuticals. This lack of training is grossly apparent in how readily many healthcare providers dismiss patient concerns about health effects linked to PFAS exposure."

It continues, "Being armed with this basic level of information will at least give individuals baseline data about their internal exposures and the power to request preventive monitoring and testing for PFAS-linked diseases."

The letter follows an Aug. 11-12 meeting of the NAS panel where several of the individual liaisons and other stakeholders spoke on..

Health Groups Urge NAS To Boost PFAS Test Guide But Some See Hurdles

Diana DiGangi, Inside TSCA

https://insideepa.com/tsca-news/health-groups-urge-nas-boost-pfas-test-guide-some-see-hurdles

Medical professionals are urging a National Academy of Sciences (NAS) panel to recommend stronger federal guidance on clinical testing for per- and polyfluoroalkyl substances (PFAS) exposures but some experts say that implementing any testing policy could be complicated in part because of a lack of health standards.

"Almost everyone has PFAS in their blood," David Resnik, a bioethicist with the National Institute of Environmental Health Sciences (NIEHS) told the NAS panel during an Aug. 11 meeting, but "there's no established safe or normal level of PFAS in the blood, and no treatment for reducing PFAS levels in the blood" so it is not clear what medical professionals should do with any results.

He added that it also may not be possible to determine exposure routes of PFAS.

The panel, funded by the Agency for Toxic Substances and Disease Registry (ATSDR) and NIEHS, is tasked with crafting guidance on clinical testing for health effects from PFAS exposures -- which in turn could aid federal scientists' effort to evaluate the chemicals' toxicity and exposure data and eventually inform regulations under the Toxic Substances Control Act (TSCA) and other statutes.

The NAS committee will ultimately produce a report for the Centers for Disease Control and Prevention (CDC), ATSDR and NIEHS with "an objective and authoritative review of current evidence regarding human health effects of those PFAS being monitored in the CDC's National Report on Human Exposure to Environmental Chemicals."

The panel's report will assess the strength of evidence for "putative health effects suggested by human studies (including immune response, lipid metabolism, kidney function, thyroid disease, liver disease, glycemic parameters and

diabetes, cancer, and fetal and child development)", and advise CDC and ATSDR on whether to revise their clinical guidance for PFAS blood and urine testing.

The NAS' input, combined with CDC and ATSDR's ongoing "multi-site" study of PFAS health effects, could have implications for the regulation of various PFAS under TSCA, especially if it allows regulators to uncover more widespread contamination than is currently known, or to more precisely identify their health impacts.

During the Aug. 11 meeting, several health professionals urged the panel to recommend improvements to the agencies' current guidelines for clinicians on how to deal with exposed patients. "It would be really helpful to have a universal guidance on who to test, when to test, how to interpret the test results, what the management is -- follow-up, treatment, medications," said Steward Reed, an internist at the University of California Los Angeles.

He said such a guide would address concerns he previously had when dealing with a patient who was "very knowledgeable about PFAS and was connected with all the resources, and knew much more than I did."

He told the panel he was "upfront" with the patient, offering to order a test but acknowledging that he did not know how to interpret any results. "'I don't know what to do with them, I don't know who to send you to. If you can figure that out, then I can order the test'," he said he told the patient.

Because of this knowledge gap, Reed said that the set of clinical guidelines that the NAS committee has frequently discussed implementing during this series of meetings would be helpful to him and his fellow clinicians.

Current Guidance

In a letter to the NAS panel, a group of current and former medical professionals organized by On Your Side Action, a North Carolina-based health advocacy group, voiced a similar message, saying they are "deeply concerned that current clinical guidance from [ATSDR and CDC] may inadvertently and unintentionally mislead" physicians and others about the potential risks of PFAS exposure.

As a result they are calling on the panel to provide guidance for physicians to request PFAS blood testing and recommendations for additional screening tests, as well as proactive behavioral...

'Concerning' Levels Of Forever Chemicals Polluting Henderson, Ky.

Ryan Van Velzer, WFPL

https://wfpl.org/concerning-levels-of-forever-chemicals-polluting-henderson-ky/

High levels of PFAS chemicals have contaminated a plastics recycling company in Henderson, Kentucky, spreading through the air and water and likely contaminating a creek that flows into the Ohio River, state officials say.

The company, Shamrock Technologies Inc., notified state regulators about the problem after hiring a consultant to screen for the pollution three years ago.

State records obtained by WFPL News through a records request show the extent of the pollution at the site, where PFAS levels rival those found at EPA Superfund sites on military installations across the country, but get far less attention.

State officials are still trying to gauge the extent of the pollution offsite. As recently as last year, scientists discovered PFAS chemicals outside of Shamrock's facilities, in the soil and groundwater nearby, as well as in a creek that flows into the Ohio River, a drinking water source for millions of people.

The existence of the so-called "forever chemicals" in other communities has led to billions spent on cleanup costs,

personal injury litigation and environmental monitoring. To date, state testing has not found PFAS levels above federal standards in Henderson's drinking water or at private wells near Shamrock facilities.

The consulting firm hired by Shamrock found the pollution in nearly every sample they gathered and noted concerns the pollution could migrate offsite, records show.

Per- & Poly-fluoroalkyl substances (PFAS) are a class of contaminants known as "forever chemicals" because they don't break down in nature. The acronym describes a family of thousands of compounds used in a diverse range of products including non-stick pans, fire fighting foam, waterproof coatings and fast food wrappers.

Ingestion of the chemicals is linked to birth defects, kidney and testicular cancer, as well as damage to the liver, immune system and thyroid, according to the U.S. Environmental Protection Agency.

Despite the known risks, neither the federal government nor Kentucky has established regulatory limits on the use of PFAS compounds. The EPA has however set a lifetime advisory limit for its presence in drinking water.

Since 2018, Kentucky's Energy and Environment Cabinet, or EEC, has worked with Shamrock to learn the scope of the pollution and begin cleanup of what it calls "very high and concerning" levels of PFAS found at Shamrock's facilities.

Even without specific regulations for PFAS compounds, the cabinet can force Shamrock Technologies to remove hazardous pollution and pay for the cleanup costs under the state's superfund law. Though no violations have yet been issued, Shamrock is now working under an agreed order with the state to test and clean up the pollution.

"The cabinet is working quickly, with the protection of the public's health and safety guiding its actions," said EEC spokesperson John Mura in an emailed statement. "It will take whatever long-term regulatory steps are necessary to protect the integrity of the immediate environment and the health of nearby residents."

Both the cabinet and Shamrock Technologies declined interview requests for this story.

Shamrock manufacturing director Michael Jussila provided an emailed statement saying the company self-reported its finding to the state and has worked closely with officials since then.

"Shamrock's commitment, close cooperation, and adherence to the terms of the order continue on these and other corrective measures going forward," Jussila said.

Shamrock Technologies

Shamrock Technologies is an industrial producer of micronized powders and waxes for things like printing inks and coatings. From the original plant in New Jersey, the company expanded to industrial facilities in Kentucky, Belgium and China, according to a YouTube video.

In the late 1970s, the company began recycling plastics for their products. The plastics can include PFAS contaminants that companies including 3M and DuPont have voluntarily discontinued...

Digging Deeper: Physicians and community members push for permanent solution to PFAS problem
Marcus Aarsvold, WXOW
https://wxow.com/2021/08/15/digging-deeper-physicians-and-community-members-push-for-permanent-solution-to-pfas-problem/

People living in the Town of Campbell are waiting on politicians to prioritize the community's health over politics and money.

Scientists believe PFAS chemicals contribute to lower fertility in women, cancer and liver disease.

Lifelong French Islander Steve Duffrin's well tested at 21 parts-per-trillion (PPT) containing PFAS, a concerning level.

"The frustrating part is waiting because I think the waiting is more over dollars over concern for people's health," Duffrin said. "I would put clean drinking waterway ahead of any financial concern."

He coaches cross country at Logan High School so healthy and clean drinking water means everything to him. He thinks there is too much debate and not enough action.

"We didn't cause the problem," he said. "And right now I feel like I'm a little bit powerless because I don't know what I can do to help."

Retired pediatrician Dr. Beth Neary tries to help by advocating for health over politics and money with the Wisconsin Environmental Health Network at the capitol in Madison. She believes some politicians protect wealthy manufacturing companies' interests by limiting regulations on products that could contaminate groundwater.

"At some point you have to say, 'What comes first?' And I think health comes first," Dr. Neary said. "My view is the health view and there's no politics there everybody wants clean water and air."

The question remains: What happens when there is proof that PFAS chemicals are consumed everywhere?

"This stuff has been in our environment for decades," La Crosse Mayor Mitch Reynolds said. "If you're cooking a meal in a non-stick frying pan there's PFAS in that. If you're walking on a new carpet there's PFAS in that. So I just want to make sure that we are in a complete understanding that this is not an isolated thing that is just about airports and groundwater supplies and the Town of French Island. This is about chemicals that manufacturers delivered to us without the necessary warnings."

According to the Wisconsin PFAS Action Council, the Minnesota state budget allocated more than $15 million for PFAS clean-up and prevention. The Wisconsin state budget passed $1 million to collect and dispose of firefighting foam containing PFAS.

"We're seeing states individually take the lead because things on the national level take a long time," Dr. Neary said. "They get caught up in committees. So that's why you're seeing states like Michigan and Minnesota states that border us setting new PFAS standards."

Duffrin does not believe a permanent and bi-partisan solution is too much ask for so he can move on with his life.

"I know I've started to make spaghetti and I just go to the tap instinctively and start to fill a pan with water and realize oh no I shouldn't do that," he said. "My biggest hope is that we'll get all of the local governments to agree and sort of hold hands with the state and the feds to bring us drinking water that we can all trust."

He worries about his cross country athletes.

"You just get kind of a sinking feeling that like, 'Oh have I been doing more harm than good?'" he said when discussing PFAS contaminated water consumption. "Of course unwittingly and then what do you say to people now? You want them to be double-checking to make sure they've got a good source of water."

Duffrin communicated with Town of Campbell Board Supervisor Lee Donahue, and Congressman Ron Kind about moving forward with (D) Kind's PFAS Action Plan of 2021:

Dr. Neary said if everyone speaks up there could be a faster and more permanent fix.

"That's what I want people to do is become aware and then realize that they have the power to tell their politicians, 'You need to do this. This is clean drinking water. This is our health,'" she said...

Bayer petitions Supreme Court to review Roundup exposure case
Steve Davies, Agri-Pulse
https://www.agri-pulse.com/articles/16326-bayer-petitions-supreme-court-to-review-roundup-exposure-case

Bayer has filed a petition with the Supreme Court requesting the review of a Ninth Circuit Court of Appeals decision that upheld a $25 million award to a plaintiff who alleges exposure to Roundup caused his Non-Hodgkin lymphoma.

In the petition, Bayer said federal pesticide law preempts state-law claims such as those brought by Edwin Hardeman, who alleged Monsanto failed to warn him and other consumers of the risk of contracting cancer from exposure to Roundup. The Ninth Circuit ruled in Hardeman's favor in May.

Bayer said the Environmental Protection Agency has concluded "such a cancer warning would be false and therefore prohibited" by the Federal Insecticide, Fungicide, and Rodenticide Act.

"The petition underscores that consistent regulatory assessments in the U.S. and worldwide, and the overwhelming weight of scientific evidence, support the conclusion that glyphosate-based herbicides are safe and not carcinogenic," Bayer said in a news release. "In light of the EPA's approval of the Roundup label without a cancer warning, any state-law failure-to-warn claims premised on such warning would plainly conflict with federal law and thus are preempted."

The Ninth Circuit decision "contravenes [the Supreme Court's] holding that any state labeling requirement not 'genuinely equivalent' to a FIFRA labeling requirement is preempted," the company said in the petition, citing Bates v. Dow Agrosciences, a 2005 Supreme Court decision.

Bayer had said it would file the petition in an attempt to influence the outcome of NHL cases that have so far not been settled as part of litigation brought by tens of thousands of plaintiffs across the country. The company estimates about 96,000 of 125,000 current claims have either been settled or were ineligible for settlement, leaving about 30,000 currently unsettled claims that could be affected by a Supreme Court ruling, as well as any future claims filed by consumers with prior exposure to Roundup.

In a recently released "five-point plan" for dealing with litigation, Bayer said once it filed the petition, it would be selective in deciding which cases to settle and would stop discussing settlements if the Supreme Court grants review. Last month, the company said it would stop selling Roundup products in the lawn and garden market in an effort to stem further litigation.

"Supreme Court review and reversal of the Ninth Circuit's flawed ruling is a major factor in this plan and likely will determine whether the litigation will largely end (if the court issues a favorable decision on a cross-cutting issue like federal preemption) or the company implements a claims process to resolve claims over the next 15 years (in the event of an adverse outcome)," Bayer said in its release.

The company noted it booked "an additional gross provision" of $4.5 billion before tax and discounting in the second quarter of fiscal 2021, "to reasonably account for future litigation exposure in the event of an adverse outcome." Bayer expects the Supreme Court to decide in the next six months whether it will grant a review of the Hardeman case.

"Although some Roundup cases have settled, this one has not, and there remain tens of thousands of filed and unfiled claims that have not settled," Bayer said in the petition. "Moreover, the district court recently rejected a broad proposed settlement of potential future claimants. Accordingly, the issues here remain live and important for thousands of pending cases, as well as any cases filed in the future."

The Ninth Circuit's interpretation of when state-law claims are preempted is too restrictive, resulting in situations where "state requirements are preempted only if inconsistent with federal requirements at a high level of generality," Bayer said in the petition.

But that reading of the law "creates divergence among the courts of appeals, threatening considerable confusion because courts routinely look to decisions interpreting similar statutory language when...

The EPA internally raised concerns about Seresto flea collar for years, new records reveal
Johnathan Hettinger, Investigate Midwest
https://investigatemidwest.org/2021/08/13/the-epa-internally-raised-concerns-about-seresto-flea-collar-for-years-new-records-reveal/

Even as it assured the public of its safety, the U.S. Environmental Protection Agency privately raised concerns for at least six years about the disproportionate number of incidents of harm and death linked to the popular Seresto flea and tick collar, newly released government documents show.

As early as 2015, the EPA said that Seresto's incident count "ranked #1 by a wide margin" compared to other pet flea and tick products. Three years later, the agency recognized that it would receive reports of 50-100 pet deaths related to Seresto every three months with a "trend of increasing numbers."

Yet the agency allowed the continued sales of the collar despite numerous deliberations about the reports and continuously meeting with Bayer, the producer of the collar, about the reports. Bayer, which has said in its 2019 annual report that it made $300 million dollars on the collar, sold its animal health division, including the collar, to Elanco Animal Health, a former subsidiary of Eli Lilly and Co., for $7.6 billion last year.

Earlier this year, Investigate Midwest and USA TODAY found that the EPA has received at least 1,698 reports of pet deaths and more than 75,000 incident reports of pet harm related to the Seresto collar since it was approved in 2012. Following that story, the U.S. House Committee on Oversight launched an investigation into Seresto and asked Elanco to voluntarily recall the products. A number of class action lawsuits have since followed.

In addition, the newly released documents show that the EPA was in contact with Canadian health officials for months in 2016 as Canada considered, and ultimately refused, to let Bayer sell Seresto in that country. The EPA previously told Investigate Midwest and USA TODAY that it had no knowledge of Canada's decision-making process.

The documents were obtained through a lawsuit filed against the EPA by the Center for Biological Diversity.

Lori Ann Burd, environmental health program director for the Center for Biological Diversity, said this is an "explosive" set of documents.

"It shows they knew. It shows they did nothing," Burd said. "If anything, these documents make it worse. They were so well aware of the scope of the problem."

The EPA said it was not able to immediately provide a comment.

In a statement, Elanco spokeswoman Colleen Dekker said the company has continually collaborated with the EPA, "which is our typical practice with regulatory authorities around the world." She said the EPA has conducted a rigorous review of Seresto, and Elanco has also conducted third-party reviews of Seresto and continues to stand by the collar's safety.

"All data and scientific evaluation used during the product registration process and through Elanco's robust

pharmacovigilance review supports Seresto's safety profile and efficacy," Dekker said. "Seresto protects millions of dogs and cats against potentially harmful fleas and ticks, which can transmit dangerous disease and impact pets' quality of life."

Dekker said that an analysis by the company determined that 0.3% — or one in 300 — of pets have reported an adverse reaction, and that the existence of a report does not mean that Seresto caused the incident.

"It's critically important to understand that these raw reports are not an indication of cause and must be further investigated and analyzed to determine if they were actually caused by the product," Dekker said.

Dekker said an investigation by Elanco found that 12 pets have reportedly died in a manner probably or possibly casually related to the Seresto collar.

"None of these were linked to the active ingredients in Seresto, but instead due to the physical nature of a collar," Dekker said in an emailed statement.

Bayer did not respond to questions about Seresto, instead issuing an emailed statement.

"Bayer completed its sale of its animal health division to Elanco in August of 2020 and this sale included Seresto flea and tick products. We no longer manufacture or...

Bayer takes legal battle over Roundup cancer claims to U.S. Supreme Court
Ludwig Burger, Reuters
https://www.reuters.com/business/healthcare-pharmaceuticals/bayer-takes-legal-battle-over-glyphosate-cancer-claims-us-supreme-court-2021-08-16/

Bayer (BAYGn.DE), trying to contain billions of dollars in legal costs, filed a petition with the U.S. Supreme Court to reverse an appeals court verdict that upheld damages to a customer blaming his cancer on the German group's glyphosate-based weedkillers.

Bayer last week lost a third appeal against verdicts that sided with users of glyphosate-based Roundup, awarding them tens of millions of dollars each, leaving the drugs and pesticides group to pin hopes for relief on the United States' top court. read more

Bayer on Monday asked the Supreme Court to review one such verdict by the federal 9th U.S. Circuit Court of Appeals that found in favour of California resident and Roundup user Edwin Hardeman, it said in a statement.

The maker of aspirin, Yasmin birth-control pills and stroke prevention drug Xarelto has repeatedly argued that the cancer claims over Roundup go against sound science and product clearance from the federal environmental regulator.

"The Ninth Circuit's errors mean that a company can be severely punished for marketing a product without a cancer warning when the near-universal scientific and regulatory consensus is that the product does not cause cancer, and the responsible federal agency has forbidden such a warning," the company said.

Roundup-related lawsuits have dogged the company since it acquired the brand as part of its $63 billion purchase of agricultural seeds and pesticides maker Monsanto in 2018.

Bayer struck a settlement deal in principle with plaintiffs last year but failed to win court approval for a separate agreement on how to handle future cases, as it intended to keep the product on the market.

Last month, it took an additional litigation provision of $4.5 billion to cover any unfavourable ruling by the Supreme

Court. That came on top of $11.6 billion it previously set aside for settlements and litigation over the matter. read more

Among other measures to contain the legal onslaught, Bayer plans to replace glyphosate in weedkillers for the U.S. residential market with other active ingredients.

It will, however, continue to sell the herbicide to farmers, who rely on it heavily, and whose role in the litigation has been described as negligible by Bayer...

'Ten years ago this was science fiction': the rise of weedkilling robots
Pádraig Belton, The Guardian
https://www.theguardian.com/environment/2021/aug/14/weedkilling-robots-farming-pesticide-use-sustainable

In the corner of an Ohio field, a laser-armed robot inches through a sea of onions, zapping weeds as it goes.

This field doesn't belong to a dystopian future but to Shay Myers, a third-generation farmer whose TikTok posts about farming life often go viral.

He began using two robots last year to weed his 12-hectare (30-acre) crop. The robots – which are nearly three metres long, weigh 4,300kg (9,500lb), and resemble a small car – clamber slowly across a field, scanning beneath them for weeds which they then target with laser bursts.

"For microseconds you watch these reddish color bursts. You see the weed, it lights up as the laser hits, and it's just gone," said Myers. "Ten years ago this was science fiction." Other than engine sounds, the robots are almost silent and each one can destroy 100,000 weeds an hour, according to Carbon Robotics, the company that makes them.

Carbon Robotics, in common with other agri-robotic startups, emphasizes the environmental benefits these machines can bring to farming by helping to reduce soil disturbance, which can contribute to erosion, and allowing farmers to heavily reduce or even eradicate the use of herbicides.

Farmers are under increasing pressure to reduce their use of herbicides and other chemicals, which can contaminate ground and surface water, affect wildlife and non-target plants, and have been linked to increased cancer risk. At the same time, they are battling a rise in herbicide-resistant weeds, giving extra impetus to the search for new ways to kill weeds.

"Reduced herbicide usage is one of the spectacular outcomes of precision weeding," said Gautham Das, a senior lecturer in agri-robotics at the University of Lincoln. Destroying weeds with lasers or ultraviolet light uses no chemicals at all. But even with robots that do use herbicides, their ability to precisely target weeds can reduce the use about 90% compared with conventional blanket spraying, Das said.

Five years ago there were almost no companies specializing in farm robots, said Sébastien Boyer, the French-born head of San Francisco-based robot weeding company FarmWise, but it's now "a booming field".

The global market for these agricultural robots – which can also be designed to perform tasks such as seeding, harvesting and environmental monitoring – is predicted to increase from $5.4bn in 2020 to more than $20bn by 2026. "Things scale up very quickly in agriculture," said Myers.

They're not just the preserve of larger farms, said Elizabeth Sklar, an engineering professor at King's College London, "some of the smaller farms are able to be more flexible with trying out new approaches".

FarmWise found its first customers in California's Salinas Valley, which grows lettuce, broccoli, cauliflower and strawberries and is known as "America's salad bowl". Ten of the US's 20 largest vegetable growers, in California and

Arizona, now use the company's robot weeders, according to Boyer. "In the beginning, they started working with us as an experiment, but now they are heavily relying on us".

Removing pests, such as aphids, thrips and lygus bugs, is a next step for FarmWise. Robots can markedly reduce the use of fungicides and pesticides, said Boyer, by applying them more precisely, using computer vision.

As well as concerns over farming chemicals, labor shortages also play a part in robots' advance into farmland. Farm labour can be "expensive, hard to come by and dangerous" for people involved, said Myers. In a viral TikTok video in April he said he could not hire workers to pick his asparagus crop because the government had not granted him visas in time.

There are still big challenges to wider-scale adoption. One problem is working in places where a battery recharge is not always readily available, which is a reason some robots – including those made by Carbon Robotics and FarmWise – use diesel for power, which itself produces harmful emissions and pollution.

The robot farmers of the future "have got to be...

EPA Announces Appointments of New Members for the FIFRA SAP
James V. Aidala, Heather F. Collins, M.S., Barbara A. Christianson, Bergeson & Campbell Blogs
http://pesticideblog.lawbc.com/entry/epa-announces-appointments-of-new-members-for-the-fifra-sap

On August 13, 2021, the U.S. Environmental Protection Agency (EPA) announced that it appointed two new members, Cheryl A. Murphy, Ph.D., Professor, Director of Center for PFAS Research, Michigan State University, and Veronica J. Berrocal, Ph.D., Associate Professor, Department of Statistics, University of California, to serve on the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP). The Chair and one other existing member also were reappointed. These appointments, effective July 30, 2021, were made by the EPA Administrator following nominations provided by the National Institutes of Health (NIH) and the National Science Foundation (NSF).

Members of the FIFRA SAP serve staggered terms of appointment, generally of three years. They possess expertise in scientific and technical fields relevant to human health and ecological risk assessment of pesticides. Members also have background and experiences that typically contribute to the diversity of scientific viewpoints on the Panel.

The FIFRA SAP serves as a primary scientific peer review mechanism of EPA's Office of Pesticide Programs and is structured to provide independent scientific advice and recommendations to EPA on health and safety issues related to pesticides.

The FIFRA SAP is composed of the following scientists:

Robert E. Chapin, Ph.D., Chair
Affiliation: Former Senior Research Fellow (Retired), Pfizer Global Research and Development, Groton, Connecticut
Expertise: In vitro predictive toxicology; pre-conception reproductive toxicology
Education: Ph.D., Pharmacology, University of North Carolina, Chapel Hill; B.A., Biology, Earlham College
Veronica, J. Berrocal, Ph.D., Member
Affiliation: Associate Professor, Department of Statistics, University of California, Irvine, California
Expertise: Statistics; spatial and spatio-temporal statistics; statistical methods for environmental exposure assessment; spatial and environmental epidemiology
Education: Ph.D. Statistics, University of Washington, Seattle, Washington; M.Sc. Statistics, Michigan State University, East Lansing, Michigan; Laurea in Mathematics, Universita' "La Sapienza," Roma, Italy; and Degree of Etudes Approfondis (DEA) en Mathematiques, Universite' "Joseph Fourier," now part of Universite' Grenoble Alpes, Grenoble, France
Jeffrey R. Bloomquist, Ph.D., Member

Affiliation: Professor of Entomology, Entomology and Nematology Department, Emerging Pathogens Institute, University of Florida, Gainesville, Florida
Expertise: Chemistry, human and insect neurophysiology, neurochemistry, insecticide toxicology, mode of action, and resistance; including studies of comparative neurotoxicology and environmental Parkinsonism
Education: Ph.D. Entomology, University of California, Riverside, California; M.S. Entomology, Mississippi State University, Mississippi; B.S. Entomology, Purdue University, Indiana; and Postdoctoral appointment in Insecticide Toxicology, Cornell University, New York
Gaylia Jean Harry, Ph.D., Member
Affiliation: Group Leader, Neurotoxicology Laboratory, National Toxicology Program, National Institute of Environmental Health Sciences (NTP/NIEHS), Research Triangle Park, North Carolina
Expertise: Mode of action of environmental agents on the nervous system with focused interest on the developing nervous system, neurotoxicology, neuropathology, behavioral assessments, neuroinflammation, and developmental processes using in vivo and in vitro models
Education: Ph.D. Experimental Psychology, Virginia Commonwealth University; M.S. Psychology, Virginia Commonwealth University; and B.S. Psychology, Virginia Commonwealth University, Richmond, Virginia
Cheryl A. Murphy, Ph.D., Member
Affiliation: Professor, Director of Center for PFAS Research, Michigan State University, East Lansing, Michigan
Expertise: Ecological Toxicology, Adverse Outcome Pathways, Fish Physiology, Behavior
Education: Ph.D. Department of Oceanography and Coastal Sciences, Louisiana State University...

EPA Posts Summary of Meeting with EDF on Tiered Data Reporting Proposal
Lynn L. Bergeson, Carla N. Hutton, Bergeson & Campbell Blogs
http://www.tscablog.com/entry/epa-posts-summary-of-meeting-with-edf-on-tiered-data-reporting-proposal

The U.S. Environmental Protection Agency (EPA) met with the Environmental Defense Fund (EDF) on August 5, 2021, to clarify concepts from the July 27, 2021, tiered data reporting (TDR) webinar. EPA's meeting summary states that EDF representatives requested clarification on the following issues discussed during the webinar:

Whether EPA intends to scale back the Chemical Data Reporting (CDR) requirements with respect to the amount of information collected per chemical or to the number of chemicals reported.
EPA responded that the changes to CDR discussed in the webinar presentation would reduce the data collected per chemical and would not impact which chemicals were required to be reported under CDR.
Whether the data expected to be used to inform the identification of potential candidate chemicals for prioritization was limited to CDR.
EPA responded that the webinar presentation was not intended to identify all sources of information that would be used for the various steps of the overall existing chemicals process, including informing the identification of the pool of potential candidate chemicals for the prioritization process. Rather, the intent was to identify the data that would be available from either CDR or TDR for use for each step in the process.
Reasoning behind EPA's decisions regarding timing of the collection tiers and selected data elements.
EPA responded that the specifics of what data elements would be included in which collection tiers was under development and that the Agency is interested in comments from EDF or other stakeholders to help inform the TDR proposal.
Whether EPA had any more details about the post-risk management stage, which was included in the webinar presentation as "TBD."
EPA responded that there were no additional details at this time.
According to the meeting summary, EDF provided additional comments during the meeting, including concern about scaling back CDR; belief that data should be collected earlier in the existing chemicals process to be more useful and enable EPA to make better use of TSCA Section 4; and a request to make the reported data publicly available in a timely manner to inform public comment. EDF "also reiterated their concern with the length of the comment period following the webinar." The meeting summary states that EPA will accept supplemental comments after August 16, 2021, that are e-mailed to Susan Sharkey (Sharkey.susan@epa.gov), but that such comments should be provided as soon as possible.

EPA noted that interested parties could comment during interagency review and following the publication of the proposal.

More information on EPA's July 27, 2021, webinar is available in our July 29, 2021, memorandum. As reported in our August 6, 2021, blog item, EPA posted a memorandum in Docket ID EPA-HQ-OPPT-2021-0436 stating that it will not extend the August 16, 2021, comment period stemming from the July 27, 2021, public webinar.

Tell EPA: It Must Ban Pesticides Unless Shown Not To Be Endocrine Disruptors
N/A, Beyond Pesticides
https://beyondpesticides.org/dailynewsblog/2021/08/tell-epa-it-must-ban-pesticides-unless-shown-not-to-be-endocrine-disruptors/

The failure of the U.S. Environmental Protection Agency (EPA) to meet its statutory responsibility to protect people and wildlife from the dire consequences of exposure to endocrine-disrupting chemicals must end. The Office of the Inspector General (OIG) for EPA has issued a damning report on the agency's progress in protecting the population from potentially damaging endocrine disruption impacts of exposures to synthetic chemical pesticides (and other chemicals of concern) that shows the situation to be even worse than previously reported. The OIG's summary statement says, "Without the required testing and an effective system of internal controls, the EPA cannot make measurable progress toward complying with statutory requirements or safeguarding human health and the environment against risks from endocrine-disrupting chemicals." As a result, according to the OIG, "we have yet to see EPA use endocrine disruption findings in pesticide registration decisions."

Tell EPA that pesticide use cannot continue without findings of no endocrine disruption.

Over recent decades, evidence has mounted showing that many pesticides interfere with hormones—and are therefore endocrine-disrupting chemicals (EDCs). In 1996, the promise of screening pesticides for endocrine disruption generated support from environmentalists and public health advocates for the Food Quality Protection Act (FQPA), which traded the absolute prohibition of carcinogens in food of the Delaney Clause for a risk assessment standard that is subject to manipulation and an underestimation of real-life hazards. And now, 25 years later, we have yet to see EPA use endocrine disruption findings in pesticide registration decisions.

The endocrine system consists of a set of glands (thyroid, gonads, adrenal and pituitary) and the hormones they produce (thyroxine, estrogen, testosterone and adrenaline), which are responsible for the activation, regulation, and de-activation of a huge variety of functions in, especially, development, reproduction, growth, metabolism, the cardiac and circulatory system, sleep, mood, and behavior, among others. Hormones are signaling molecules that travel through the bloodstream and elicit responses in other parts of the body. The hormones secreted by the endocrine glands travel through the bloodstream to various organs and tissues, where they communicate critical regulatory messages.

The ingredients in many pesticides (and in many consumer products) act as endocrine disruptors in humans and other animals in several ways. They may: (1) mimic actions of hormones the body produces (e.g., estrogen or testosterone), causing reactions similar to those generated by the naturally produced hormones; (2) block hormone receptor cells, thereby preventing the actions of natural hormones; or (3) affect the synthesis, transport, metabolism, and/or excretion of hormones, thus altering the concentrations of natural hormones in tissues or at receptor sites.

As the OIG report notes, "Small disturbances in endocrine function, particularly during certain highly sensitive stages of the life cycle, such as pregnancy and lactation, can lead to profound and lasting effects. Adverse endocrine-related effects in humans may include breast cancer, diabetes, obesity, infertility, and learning disabilities." In addition, there are both direct and indirect implications of EDCs, such as other cancers, Parkinson's disease, multiple reproductive disorders and anomalies (e.g., polycystic ovary syndrome, testicular dysgenesis syndrome, endometriosis, and reduced sperm count), alteration of the gut biome and resultant dysfunction, and metabolic disorders apart from diagnosable diabetes.

The OIG report finds that EPA's Office of Chemical Safety and Pollution Prevention (OCSPP), which is responsible for testing all pesticide chemicals for endocrine-disrupting activity in humans, has failed to implement a section of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by...

PFAS Update: Current State-by-State Consumer Products Regulations
David Brankin, John Kindschuh, Thomas Lee, JD Supra
https://www.jdsupra.com/legalnews/pfas-update-current-state-by-state-4160914/

Manufacturers, distributors, and retailers of consumer products across a broad spectrum of industries are being impacted by regulations regarding the presence of per- and polyfluoroalkyl substances ("PFAS") in their products. This area is rapidly developing as states create new laws, and the penalties and litigation risk for non-compliance can be significant. Below is an overview of enacted and proposed state laws and regulations as of August 10, 2021, to assist you in investigating whether your products may be impacted.

While this article focuses on state laws and regulations, we note that the House of Representatives recently passed the PFAS Action Act of 2021, which among other things, includes provisions regarding labeling requirements for certain consumer products (see section 10 of the Act for additional information.) While the Senate still needs to approve this bill, it demonstrates that federal attention is now being directed to PFAS consumer products issues, and that federal action in this area is reasonably likely.

PFAS is a family of chemicals comprised of over 5,000 compounds. According to the Agency for Toxic Substances and Disease Registry ("ATSDR"), PFAS have been reported in a variety of consumer products, including the following:

Some grease-resistant paper, fast food containers, microwave popcorn bags, pizza boxes, and candy wrappers;
Nonstick cookware (e.g., Teflon);
Stain resistant coatings used on upholstery, or other fabrics;
Water resistant clothing such as "durable water repellent clothing;"
Cleaning products;
Personal care products (e.g., shampoo, dental floss) and cosmetics (e.g., nail polish, eye makeup); and
Paints, varnishes or sealants.
Some studies have also shown that certain PFAS chemicals accumulate in humans and animals, including deer meat and fish tissue.

Specific Consumer Product Regulations
States have taken many different approaches to regulating consumer products containing PFAS. State regulations of PFAS in consumer products have principally focused on the following product sectors, but these categories are not exclusive:

Food Packaging;
Personal Care Products;
Children's Products;
Use and Manufacturing;
Textiles, Fabrics, Carpets or Rugs, and Upholstery; and
The Consumption of Fish Tissue and Deer Meat...

Maine PFAS Products Bill Most Far-Reaching To Date
John Gardella, The National Law Review
https://www.natlawreview.com/article/maine-pfas-products-bill-most-far-reaching-to-date

On July 15, 2021, Maine passed what was touted as the most aggressive PFAS bill related to products thus far in the country. While true that the Maine PFAS products bill is the most far-reaching PFAS bill in the United States to date in terms of the scope of products impacted by the legislation, it is also important to note that the bill will not completely curtail PFAS products sales in Maine. In fact, a closer look at the language in the bill shows that some over-broad or vague terms may provide companies with opportunities to permissibly continue selling PFAS-containing products within Maine. Nevertheless, it is critical for companies to immediately assess the impact of the Maine PFAS products bill on corporate practices, compliance with the language in the bill, and make decisions regarding continued use of PFAS in products, as opposed to substituting for other substances. At the same time, companies impacted by the Maine PFAS legislation must be aware that the bill poses risks to the companies involvement in PFAS litigation in both the short and long term.

Maine's PFAS Products Bills – What Does It Aim To Do?
Several states have already taken steps to ban PFAS use in certain specific products, including firefighting foam, food packaging, and ski wax, to name a few. The Maine PFAS products bill (LD 1503), however, goes well beyond carving out PFAS bans for individual products. Instead, the bill bans PFAS from all products of any kind. The far-reaching approach makes Maine the first state in the United States to take this type of all-encompassing approach to regulating PFAS.

The PFAS ban is segmented into various deadlines in order to give industries time to adapt. Carpets, rugs and fabric treatments will have PFAS phased out first, with a January 1, 2023 deadline for phase out. From there, Maine's legislation requires manufacturers that use PFAS in products to file certain information with the state by January 1, 2023, so that the state can determine the products that will be phased out next. Maine intends for the entire process and phase outs to be complete by 2030.

More specifically, Maine's PFAS products bill requires companies to provide it with the following information:

A description of the product;

The purpose for PFAS use in the product;

The amount of each type of PFAS used in the product; and

Contact information for the manufacturer.

The law enables the Maine DEP to levy fines, grant extensions, give permission to report on a product category instead of individual products and collaborate with other jurisdictions to obtain disclosures. The department may also waive all or part of the notification mandate if it finds the same information is already openly available.

Issues That Could Arise
As with many state bills that have passed seeking to ban PFAS from various products, Maine's bill uses language that bans "intentionally added PFAS" from products. But what is an "intentionally added" PFAS? In some instances, this may be obvious. The Maine PFAS product bill includes a brief definition of the term: "PFAS added to a product or one of its product components to provide a specific characteristic, appearance or quality or to perform a specific function. 'Intentionally added PFAS' also includes any degradation byproducts of PFAS." Many products, though, do not have "intentionally added" PFAS, so would seemingly not fall within the ban imposed by Maine. For example, a toy manufacturer who purchases a PFAS-containing paint product from another company to coat the toys. The PFAS used by the toy manufacturer was not "intentionally added." It may have been by the paint manufacturer, but will the state be able to enforce the ban against the toy manufacturer if the company did not utilize the PFAS for one of the reasons in Maine's definition of "intentionally added"? Hundreds, if not thousands, of examples like this abound in commerce, and there is not yet a clear answer on this. In the short term, this many lead...

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